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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/757,683

01/13/2004

Daniel Perreault

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EXAMINER

STIGELL, THEODORE J

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

05/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/757,683	<b>Applicant(s)</b> PERREAULT ET AL.	
	<b>Examiner</b> THEODORE J. STIGELL	<b>Art Unit</b> 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 is/are allowed.
- 6) ☒ Claim(s) 11-15 and 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

#### ***Claim Objections***

Claim 15 is objected to because of the following informalities: Claim 15 recites “slidingly” whereas the other claims recite “slidably”. The examiner suggests using “slidably” in all of the claims for consistency. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

Claims 11-15 and 17-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claims 11 and 15 recite that the “reinforcing sleeve” or the “third elongate member” is slidably disposed over another tubular member. However, these claims previously recite that the sleeve and member are fixed to an outer tubular member and therefore it is unclear how the sleeve and member can be considered as “slidably disposed”. The claims should recite that the tubular members disposed inside the sleeve and third member are the elements that are slidable. In regards to claim 15, the term “rigidly connected” is confusing. The examiner suggests using the term “fixed”.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Leavitt (5,779,731). Leavitt discloses a catheter (10) comprising a guidewire tube (18) having a distal end, a proximal end, a lumen therebetween, and an outer surface, an outer tube (16) disposed over the guidewire tube, the outer tube having a distal end, a proximal end and a lumen therebetween, a balloon (20) having a distal waist sealingly fixed to the guidewire tube, a proximal waist sealingly fixed to the outer tube, and an inflation cavity therebetween, and a reinforcing sleeve (76) having an outer surface attached to the outer tube, slidably disposed over the guidewire tube (tube 18 could move relative to 76 if pushed hard enough), and extending distally into the inflation cavity, wherein the guidewire tube comprises an inner lubricious layer (120) and an outer layer (122), further comprising a tie layer between the inner lubricious layer and the outer layer, wherein the reinforcing sleeve includes an inner surface, and wherein the inner surface of the reinforcing sleeve can be moved into contact with the outer surface of the guidewire tube.

***Allowable Subject Matter***

Claims 1-10 are allowed.

Claims 15 and 17-22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

It appears that the novelty of the invention is that the reinforcing sleeve is disposed within outer tube and *fixed* relative to the outer tube and also wherein the inner tube is slidable relative to the reinforcing sleeve.

***Response to Arguments***

Applicant's arguments with respect to claims 1-15 and 17-22 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THEODORE J. STIGELL whose telephone number is (571)272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Theodore J Stigell/

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Examiner, Art Unit 3763

/Nicholas D Lucchesi/

Supervisory Patent Examiner, Art Unit 3763